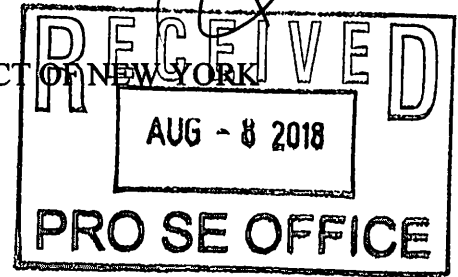


UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK



Carlyne Desir

Plaintiff(s)

MAGISTRATE JUDGE JAMES ORENSTEIN  
CV 18-2630 (ENV)(PK)

vs.

Florida Capital Bank, N.A., THE BANK OF NEW YORK Mellon FKA The Bank New York, (CWALT 2006-31CB), Bank of America, Bayview Loan Servicing, LLC, Frenkel Lambert Weiss Weisman & Gordon, LLP, STEWART TITLE, JP MORGAN CHASE BANK, N.A, and Mortgage Electronic Registration Systems, Inc. (MERS)

Defendant(s)

I Carlyne Desir have personal firsthand knowledge of the facts and competent to testify to the true of the following facts if call in witness. Carlyne Desir does hereby solemnly swear, declare, and state the facts on the record:

#### **AFFIDAVIT OF FACTS:**

Defendant Florida Capital Bank, N.A was involved and caused plaintiff Carlyne Desir harm and violated plaintiff's rights by the following facts.


**Bad faith** (intent to deceive) and **FRAUD** (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party. False suit, false act. Defendant collected debt/loan, money (monthly payments) from Plaintiff on the basis of fraud.

Defendant Florida Capital Bank, N.A specific allegations of wrongdoing:

1. Misrepresentation of a material fact by Florida Capital Bank, N.A and all defendants (Florida Capital Bank, N.A gave credit, not loan, TILA and mortgage default insurance **Exhibit A**)
2. Florida Capital Bank, N.A and all defendants had Knowledge that they were misrepresenting the fact.
3. The misrepresentation was made purposefully, with the intent of fooling the victim plaintiff Carlyne Desir
4. The victim Plaintiff Carlyne Desir believed the misrepresentation and relied upon it
5. The victim Plaintiff suffered damages as a result of the misrepresentation from Florida Capital Bank, N.A and all defendants Concealed material facts from plaintiff Carlyne Desir
6. Failure of consideration from Florida Capital Bank, N.A to plaintiff, NO LOAN for \$332,000, 00. Plaintiff signature monetized the original promissory note.
7. BANK OF AMERICA collected monthly payment for a loan Florida Capital Bank N.A. did not give and Bank of America reported on plaintiff credit report

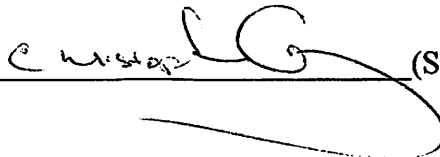
they give a loan which was false (Bank of America statement and credit report **Exhibit C**).

8. Plaintiff Truth in Lending Act (TILA) disclosure shows credit, no loan and different amount on mortgage, note and TILA **attached**)
9. Florida Capital Bank, N.A and other Banks advertise on their website for "loan" not credit. My understanding was that I was getting a loan (**advertisement Exhibit D**).
10. FRAUD
11. Florida Capital Bank, N.A breached of contract and fiduciary duties.
12. Florida Capital Bank, N.A unjust enrichment.
13. July 5, 2011 Bank of America and Mortgage Electronic Registration Systems, Inc. (MERS) recorded a fraudulent assignment of mortgage (assignment **Exhibit D**).
14. Bayview letter and court affidavit showed Bank of America as the owner. THE BANK OF NEW YORK Mellon FKA The Bank New York, (CWALT 2006-31CB) email states Bank of America is foreclosing on my property (**Exhibit D**)
15. Mortgage is PAID IN FULL by Mortgage default insurance, Cash value note and paid in full by investors (Securities and Exchange (SEC) attached).
16. An Unrebutted Affidavit stands as Truth

  
Carlyne Desir

Subscribed before me this 31 day of July 2018.  
By Christopher Gonez, Notary Public presented:  
Aug 29 2019 My Commission Expires

Executed in the presence of:

 (Seal)

